IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2125OF 2004

Sangeeta Babanrao Jadhav
Adult, Occ: At present nil,
residing at Gahdge Galli,
Malshiras, District: Solapur ....Petitioner.

V/s

1. Dist. Social Welfare
Officer, Solapur District,
Collector Compound, Solapur

2. The State of Maharashtra ....Respondents.

Mr. S.K. Kudle for the petitioner.
Mr. C.R. Sonawane, AGP for the respondents.

CORAM: V.G. PALSHIKAR &
V.M. KANADE, JJ.

DATE : 14th June, 2006

ORAL JUDGMENT: (Per V.M. Kanade, J.)

1. By this Petition, petitioner is seeking appropriate writ, order and direction, directing the respondents to absorb the petitioner in any other aided school for disabled and protect her right to be continued after condoning the break in service caused on account of delay on the part of the respondent in

respect of her absorption in any other aided school.

2. Brief facts which are relevant for the purpose of deciding the present petition are as under:-

3. Petitioner was appointed on 1/4/1995 in the D.Ed Scale in the School for Disabled. The approval was granted by respondent No.1 to the appointment of the petitioner from time to time. On 23/7/1999, recognition of the school in question was withdrawn and it is an admitted position that the petitioner was not at fault or was not responsible for the de-recognition of the school. The contention of the petitioner is that since the strength of the student was very less and that there was insufficient strength of trained special teachers, the Competent Authority de-recognised the school. It is the contention of the petitioner that the provisions of Section 25A of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 are attracted and the petitioner, therefore, is rendered surplus and it is the obligation of the school and respondent No.1 to absorb the teacher in any other aided school for disabled.

4. The learned Counsel appearing on behalf of the petitioner relied upon the judgment of this Court in Writ Petition No.3964 of 2000 whereby another teacher who was rendered surplus was granted protection and the relief of absorption was granted by the Division Bench of this Court.

5. From the perusal of Rule 25A of the MEPS Rules, 1981 it is abundantly clear that the petitioner is entitled to get protection as envisaged in the said Rules as the closure of the school is on account of de-recognition by the Department. The names of such teachers, therefore, have to be placed on the waiting list and, thereafter, they have to be absorbed in any other schools. The concerned authority, by virtue of the said rules, is obliged to recommend the name of such employee to the Management of the newly opened aided Schools which are allowed to open the additional Division of classes for being considered for the appointment on the post to which he will be qualified to be appointed. We are fortified in our view by the judgment of the Division Bench of this Court in Writ Petition No.3964 of 2000 decided on 27/9/2000.

6. We, therefore direct the respondents to forthwith consider the petitioner’s claim in the context of the

said provisions and take appropriate steps in that direction. The authorities are directed to take necessary action as early as possible, preferably within three months from the receipt of writ of this Court. Rule is made absolute accordingly.

7. Petition is disposed of in the aforesaid terms with no order as to costs.

(V.G.PALSHIKAR, J.)

(V.M. KANADE, J.)